

AG Contract No KR00 1985TRN
ADOT ECS File No JPA 00-161
Project:
Section: US-191, Clifton - Morenci

AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
PHELPS DODGE MORENCI, INC

THIS AGREEMENT is entered into 18 December, 2000,
between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF
TRANSPORTATION (the "State") and PHELPS DODGE MORENCI, INC, a Delaware
Corporation, acting by and through its duly authorized officer, hereinafter referred to as the
"Company".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Company desires to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Company.

3. Incident to the expansion of operations at the mine owned by the Company at Morenci, Arizona, the Company desires to relocate its Upper Chase Creek Diversion Facility (UCCDF) approximately 1.4 miles upstream of its present location. Re-siting the UCCDF will require the realignment of a section of US-191, which will traverse patented lands owned or controlled by the Company and federal lands administered by the U.S. Bureau of Land Management (BLM), Safford District Office, at a currently estimated cost of \$2,500,000.00 for design and construction, all at Company expense, hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1 The Company will:

- a. Provide to State standards design plans, specifications, survey data, right-of-way plans and such other documents and services required for construction, and be responsible for all costs associated therewith. Incorporate or resolve State review comments.
- b. Convey to the State a perpetual easement for US-191 roadway right-of-way over the Company's patented lands at the completion of construction, in the form contained in Exhibit A, which is attached hereto and made a part hereof.
- c. Acquire on behalf of the State a federal right-of-way grant of perpetual term for US-191 roadway over BLM lands, and any additional right-of-way, clearance or approval required for the Project.
- d. Construct the Project generally in accordance with Exhibit B attached hereto, and be responsible for all costs associated therewith.
- e. Reimburse the State for its reasonable direct actual costs associated with the Project design review and construction administration assistance, in an amount currently estimated at \$10,000 00.
- f. Be responsible to reestablish grade in any area of the Project that exhibits differential settlement in excess of two inches at any point, or that experiences a major slope failure that establishes a new crest.

2. The State will:

- a. Review the design, construction and right-of-way documents as provided by the Company and furnish the Company written comments as appropriate. Upon completion of design acknowledge that the plans meet State standards and requirements.
- b. Present a report and recommendation to the Arizona Transportation Board that the proposed relocation of the highway be established as a state highway, and recommend the abandonment of the existing alignment in exchange for the new alignment.
- c. Provide the Company construction engineering assistance as necessary and available. Invoice the company for the reasonable direct actual costs associated with the Project, in an amount currently estimated at \$10,000 00.
- d. Upon completion and the State's acceptance of the Project, provide maintenance to the highway within the State right-of-way.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project and reimbursements, provided; however, that this agreement may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon execution by the parties hereto.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511 as regards conflicts of interest on behalf of state employees

4. The provisions of Arizona Revised Statutes Section 35-214 pertaining to audit are applicable to this contract

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:


Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Phelps Dodge Morenci, Inc.
Land & Water Administrator
4521 US Highway 191
Morenci, AZ 85540

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written

PHELPS DODGE MORENCI, INC.
A Delaware Corporation

STATE OF ARIZONA
Department of Transportation

By 
H. M. "RED" CONGER
President

By 
WILLIAM J. HIGGINS
Deputy State Engineer

ATTEST

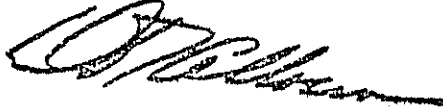
By 
G. L. JONES

00-161
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RESOLUTION

BE IT RESOLVED on this 24th day of August 2000, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with Phelps Dodge Morenci, Inc. for the purpose of defining responsibilities for the design and construction of the relocation of portions of US-191.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.

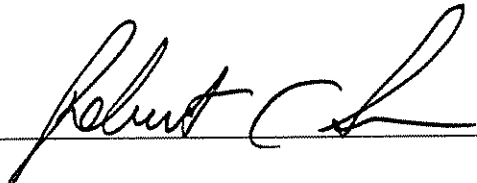
A handwritten signature in black ink, appearing to read 'D. Allocco', written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

APPROVAL OF
THE PHELPS DODGE MORENCI, INC. ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and PHELPS DODGE MORENCI, INC. and declare this agreement to be in proper form and within the powers and authority granted to the Company under the laws of the State of Arizona.

DATED this 8th day of December, 2000.



Attorney

WHEN RECORDED RETURN
TO ARIZONA DEPARTMENT
OF TRANSPORTATION,
R/W ACCOUNTING (612E) ✓
205 S. 17th AVENUE
PHOENIX, AZ 85007

JPA 88-101

STATE OF ARIZONA, County of Greenlee ss: Fee \$ 3.00 No. 871

I hereby certify that this instrument was filed for record at request of
AZ. DEPT. OF TRANSPORTATION 11-05-1991 2:50 P. .M.
205 S. 17TH AVE. 530E PHOENIX, AZ. 85007
in Dkt. No. 176 Page 451-455 witness my hand and official seal.
By Katie Clonts KATIE CLONTS
Deputy Recorder County Recorder

This space reserved for recording information



EASEMENT

PHELPS DODGE MORENCI, INC., et al

TO

STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION

PARCEL: 6-119

d. Grantors reserve the right for and on behalf of themselves, their licensees, successors and assigns, including without limitation The Morenci Water and Electric Company, to construct, maintain, use, repair, alter and remove, in, along, upon, over, under and across the Parcel, any and all pipelines, ditches, electric transmission lines, telephone lines, trestles, bridges, and similar means of conveyance, which they or any of them may desire and which will not prevent the use of the Parcel as a public highway; provided however, that Grantors shall give Grantee written notice before commencing construction of any such facility, and whenever feasible Grantors shall comply with Grantee's regulations for encroachments in highway rights-of-way for such construction. All work performed in conjunction with said construction, maintenance, use, repair, alteration and removal shall be done in accordance with and conform to all applicable ordinances and construction standards.

TO HAVE AND TO HOLD the same forever, together with all rights incidental to the location, construction, operation, maintenance and improvement of a public highway and the right to authorize, permit or license any other facilities which may be necessary or convenient for public purposes.

IN WITNESS WHEREOF this instrument is executed this 3rd day of June, 1991.

PHELPS DODGE MORENCI, INC.

By

Jeffrey G. Cleverger
PRESIDENT

Title

STATE OF ARIZONA)
COUNTY OF Greenlee) ss.

On this the 3rd day of June, 1991, before me, Barbara M. Myers, the undersigned Notary Public, personally appeared Jeffrey G. Cleverger, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Barbara M. Myers
Notary Public

My commission expires:

My Commission Expires March 2, 1994

SUMITOMO METAL MINING ARIZONA, INC.

By

K. Sudo

President

Title

STATE OF ARIZONA)

)ss.

COUNTY OF Greenlee)

On this the 3rd day of June, 1991,
before me, Barbara M. Myers, the undersigned
Notary Public, personally appeared Kaichi Sudo,
known to me (or satisfactorily proven) to be the person whose name
is subscribed to the within instrument and acknowledged that he
executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Barbara M. Myers
Notary Public

My commission expires:

My Commission Expires March 2, 1994

ATTACHMENT 1

Those portions of Sections 5 and 8, Township 4 South, Range 29 East, Gila and Salt River Meridian, Greenlee County, Arizona, which lie within a strip of land 100.00 feet in width, being 50.00 feet wide on each side of the following described line:

Beginning at a point on the existing centerline of U.S. 666 (Safford-Springerville Highway) said point being station equation highway engineers station P.O.T. 177+78.64 back = P.C. 178+13.66 ahead; thence from a Local Tangent Bearing of North 20°16'54" East, along a curve to the Left, having a radius of 1145.92 feet, a distance of 415.77 feet to a point of compound curvature; thence from a Local Tangent Bearing of North 0° 30' 25" West along a curve to the Left, having a radius of 716.20 feet, a distance of 533.55 feet; thence North 43° 11' 25" West, a distance of 848.98 feet; thence along a curve to the Right, having a radius of 572.96 feet, a distance of 1082.16 feet; thence North 65° 01' 31" East, a distance of 679.76 feet; thence along a curve to the Left, having a radius of 449.38 feet, a distance of 1155.92 feet; thence North 82° 21' 12" West, a distance of 632.86 feet; thence along a curve to the Right, having a radius of 916.73 feet, a distance of 2045.66 feet; thence North 45° 30' 00" East, a distance of 264.33 feet; thence along a curve to the Left, having a radius of 739.30 feet, a distance of 455.55 feet; thence North 10°11'40" East, a distance of 1188.57 feet; thence along a curve to the Right, having a radius of 818.51 feet, a distance of 483.73 feet; thence North 44° 03' 22" East, a distance of 138.94 feet; thence North 45° 56' 38" West, a distance of 20.09 feet to the point of ending, said point being station equation highway engineers station P.O.T. 277+39.44 back = existing P.C. 296+08.95 ahead, as recorded in Docket 55 Page 260, Parcel 6-097; said Docket recorded in Greenlee County Recorder's Office, Greenlee County, Arizona.

